

## **BEACH ALCOHOL TASK FORCE**

### **Meeting Minutes for 12/18/06**

**Contact:** Allison Stanley; [astanley@sandiego.gov](mailto:astanley@sandiego.gov), (619) 236-6622

**Members Present:**

Scott Chipman, Jean Froning, Clyde Fuller, Nancie Geller, Carol Janks, Katie Keach, Julie Klein, Jeremy Malecha, Dave Martin, Bill Bradshaw, Mike Meyers, Eric Lingenfelder (sitting in for Todd Brown)

**Chair:**

Councilmember Kevin Faulconer

Meeting called to order by Councilmember Kevin Faulconer (C-M) at 6:00 p.m.

KF opening remarks:

- Goal of task force
- Jan. mtg. will be a roundtable discussion on alcohol issues
- 1/22 at PB library
- Feb. mtg.- house parties and neighborhood issues
- March and April—alcohol on the beach issues

Members introduced themselves

First item:

- VICE unit discussing Public Convenience and Necessity (PCN)

Lt. Kendrick/Sgt. Herbert—PCN PowerPoint [link to PowerPoint on our website]

- Explanation of what the VICE unit does and what it covers
- ABC permit approval process
- PCN: how they look at permitting of these establishments. PCN can be determined and granted, yet a license could still be denied and vice versa.
- Governing laws are the CA Business & Professions code
- Crime analyst provides all crime stats and concentration levels—concentration levels are determined by state legis. for census tracts. 6-7 census tracts in PB
- City gets to weigh in on a license if it will be a police problem.
- Nov. 2000: City passed resolution to determine how PD would determine PCN for off premise licenses. PD uses about 10 factors when making this determination.
- VICE only gets to weigh in for off-sale licenses. ABC does PCN for on-sale premises. Reason being that off-sale premises affects community at large, people buy liquor then leave. Prior to Nov. 2000, all PCN determinations were made by City's Development Services Dept..
- Police takes very proactive stance in determining PCN, esp. in areas of over-concentration.
- Crime statisticians: compile stats over 1 yr. period of time—ABC tells them how to do mathematical formulas. City of SD can do it by census tracts or beats
- Bill B. asked: is drunk driving included in those statistics? Joe Dalton of PD Stats unit responded that it is included, so is underage drinking, vandalism, almost all crimes that FBI compiles are included in the crime stat analysis.
- There is an appeal process of the PCN determination as well.
- Ques. Asked by panel of how many areas are over 120% crime? Anything south of grand/garnet, down to OB are high crime.
- C-M asked: have there been any offsale licenses the dept. has approved recently? Response: yes b/c some licenses are within areas where the census tracts are below 120% crime and under concentrated. Example-Voltaire and Catalina is a low concentration area and crime down. So there are pockets that are ok for an off-sale license
- Julie K. asked: How are the stats compiled? From Jan.-Dec. on a yearly basis? Joe Dalton responded that stats used this year are from 2005.

- Carol asked: How do they determine where the crime is coming from? Bars/clubs/drinking on beach/college students, etc.? SDPD responded that the law is specific to the type of crime and varies per type of crime.
- Scott: Asked whether the police are objecting to every new license in areas of over-concentration and high crime? PD responds that they take it on case by case basis.
- Scott: Asked about license requested at Asset Gas location (PB at Mission Bay Drive), originally police protested license and w/drew it. Sgt. Herbert responded that they did not withdraw their protest, but that VICE protested the license but a hearing officer over-turned the SDPD. However, SDPD did not change their position. Hearing Officer determined there was PCN for that license and overruled VICE. You have PCN and CUP process which are distinct.

#### Item 2: Conditional Use Permit Discussion (CUP)

- C-M: what can we do to allow good operators into the area? One idea discussed has been CUP.
- Invited Lucy Contreras from the Centre City Development Corp. (CCDC) to share how CCDC works implements a CUP process downtown

#### Presentation by Lucy (handouts on the website)

- CCDC has its own Planned District Ordinance, which permits downtown to have its own CUP process. Lucy is a planner for the downtown area.
- If you are an establishment with a type 47 or type 48 licenses proposing to include entertainment, then you are required to obtain a CUP. Or if you are not a bona fide restaurant, you are also required to have a CUP.
- Pro of CUP: if you have a license granted to a restaurant, and that license is granted under auspice of a restaurant, and then turns into a nightclub, then this is a way to control that restaurant b/c cannot operate without a CUP.
- That happens frequently downtown. CUP is run through public hearing process, and appealable to CCDC board.
- Conditions are stronger than ABC conditions. They often include what the exact use will be, hours of operation, how you control queuing, security guards, etc. If the use changes, that business either has to come in and amend permit (through public CUP process) or risk getting the permit revoked.
- If business begins having entertainment, someone could file a complaint with the Neighborhood Code Compliance Dept. (NCCD). NCCD would visit the site and require that the business obtain a CUP (and go through public process).
- What happens if you violate conditions put on you? Can CCDC revoke license? No CCDC cannot revoke a license, but it can revoke the CUP (and a business cannot operate without that CUP). This year CCDC revoked two CUP b/c the establishments weren't selling food, they were being a nuisance to neighborhood. The licenses were brought to a public hearing again and were revoked.
- To operate downtown you need CUP and entertainment permit from VICE, so when a CUP is pulled, VICE will look at the entertainment permit as well.
- CUP's for on-premise for live entertainment do not have expiration dates, they can but have chosen not to. But CCDC has started doing periodical, 6 mth. administrative reviews, and 12 mth. mandatory public reviews to see whether the public has any problems with business
- What about existing locations in downtown that had licenses prior to the CUP? Pre-existing businesses can continue to operate without CUP. Only time they can catch them is when an establishment proposed an expansion or modified the type of business they are.
- Time periods for revocation: one took a year and other took 6 mths. They appeal to CCDC bd. But can continue to operate until appeal finished.
- Drawbacks of CUP: it runs w/ the land so no way for CCDC to know if there is ownership change. CCDC includes a condition that they must be notified, but not always notified and sometimes transfers occur. You could put in condition that says CUP expires when there is a change of ownership. CCDC not necessarily notified by ABC when there is a transfer either.
- Jeremy: where do the conditions for use come from? Response: they come from staff with input from community, and hearing officer makes final decision. CCDC uses a standard set of conditions

- CUP process takes b/w 6-8 weeks
- Who are the CCDC hearing officers who review these projects? A CCDC person who has nothing to do from planning.
- Scott: any strategies to deal w/ bad operators? Lucy said they started attending DART program meetings at which they discuss problem establishments.

#### Dan Joyce, DSD

- Senior planner with the City, Land Development Code team.
- Prior to 1996—there were no CUPs required for any alcohol, except for CUP requirement in council district three. CUP required for off-sale in D3, but in 1996, Council decided CUP's for all off-sale. Council specifically did not want to include on-sale
- Process for amending code to see how this could fit into the code. Long process to regulate a code amendment: would require direction from Council to mayor, all key players involved in a working draft. Then there is a code enforcement team that reviews draft code, then would go to Comm. Planning Committee which would review and make comments; then LU&H technical advisory committee reviews it; LU&H, planning commission and then city council—this process can take 15-18 mths. depending on how controversial.
- However, because we are in coastal zone, it adds another layer b/c all code amend.'s must be taken up with the Coastal Commission, and that can take another year.
- Who would review CUP's? DSD staff members, senior and higher level staff serve as hearing officers for process 3. They are appealable to planning commission.

#### Public comment

- Catherine S.—wants city to look at cup's
- Al S.—need to hear more about alcohol on beaches
- Royce—hospitality industry, bought condo in PB. There is a lot of good that comes out of hospitality industry
- Ken Lovi—VP of moose restaurant group; not opposed to a CUP, have bars in gaslamp and it works very effective; don't understand why drinking on beach not stopped; too many condos.
- Stuart Olsen—lives and works in hospitality industry; 20 bars in mb/pb donated money for toys for tots, the hospitality industry does good things.
- Sean Wilson—college student, a lot of their clientele in MB are college students, hospitality industry does their part and gets involved in comm.
- David Jones—talking bout lack of enforcement for PD. Lack of resources for PD to solve problems in the beach area.
- Teresa R.—college student working in hospitality industry.
- Michael Hayes—living in PB and working in hos. industry. They do lots of fundraising, beach pick-ups, put back into the comm.
- Nicole Larson—sail bay assoc., appalled that residents that live beyond 100 ft. have no say to protest a license. Still impacted.
- Matthew Lewis—been working in hos. industry for about a yr., puts him thru college; do a lot for people in comm., do fundraisers.
- Rob Hall—PBTC member; thinks that the ABC is trying to tell us that local control is the way to go. CCDC process sounds much better and quicker process.
- Victor Suarez—in hos. indus. They positively impacts comm. with all their work.
- Matt McDermott—PB resident for 2 yrs, in Indus.; they now work hand in hand w/ local authorities to help stop these crimes. They are eyes and ears for lack of police force.
- Aaron Langer--hos. indus.; they deal w/ same things as the neighbors, feel like they take too much of the criticism for crime and problems, they are doing their part to clean it all up
- Joe Wiley—problem with off-sale and not on-sale.
- Richard Miller—we need to take care of our beaches; has seen hos. indus. work on their problems, but can't solve w/o all of our help. CUPs do work, but don't need a lot more laws, need good enforcement of existing laws. Not enough bathrooms and trash cans. Need to work together but not demonize and polarize.

- Robert Morano—a lot of issues are house parties; focus should be in neighborhood and not just on grand/garnet
- Rick Oldam—wants to make sure info is being collected on other communities for community discussion; comm. is concerned about garbage
- Tony Morasco-set free ministries. They take people off the streets.

#### C-M comments

- Next mth—will bring this issue to full discussion. Trying to take these issues in chunks. We will look at: What makes sense? What can we do? What are other cities doing? What are the rules and what is really happening? Where should we go from here?
- We haven't all had the same baseline of knowledge, but now that is happening
- Lt. Ahearn will be there for some crime stats.
- What other info does group want to see for Jan. discussion?
  - Mike—what can we do to talk about existing bars if not following conditions? We need to enforce conditions.
  - Katie—feels that off-sale est.'s are missing.
  - Eric—get on the Mayor about taking care of our police officers; Maintenance Assessment District would be a positive for the community—it would tax the community and it raises funds to be used for clean-ups every week, security forces
  - Scott—agree that off-sale not at the table. Also deemed approved ord. is a way to have some control over existing ordinance. We need specific goals to say this is how conditions are now, this is what we want and this is what we want to do. Thinks that we should have an outside group conduct a survey/study to est. a baseline and show what we need to do to make it better. So that if we have no improvement in 2 yrs, then we move forward. Who hires and pays ALJ's who hear ABC license.
  - Bill B.—List of revoked licenses in beach comm. in last 5 years? Presentation on how the bars train people on detecting over-serving.
  - Eric—responded that he can set that up for next mtg.
  - Bill—want to compare our crime rates to other cities/counties.
  - Julie Klein—comparison with lifeguards—invite lifeguards to all of these.

NEXT MEETING TO BE HELD ON JANUARY 22, 2007

6:30 P.M. AT THE PACIFIC BEACH LIBRARY, 4275 CASS STREET